

WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER

OFFICE OF THE
CLERK OF THE
COMMISSION



0000159403

BRIAN C. McNEIL
EXECUTIVE SECRETARY

ARIZONA CORPORATION COMMISSION

DATE: JULY 9, 2001

DOCKET NO: T-03935A-00-0725

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Dwight D. Nodes. The recommendation has been filed in the form of an Order on:

T-NETIX INTERNET SERVICES, INC.
(CC&N/RESELLER)

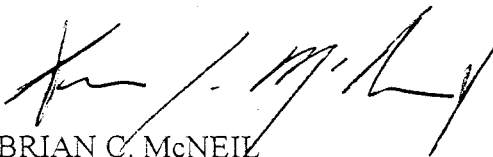
Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

JULY 18, 2001

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

JULY 24, 2001 AND JULY 25, 2001

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250.


BRIAN C. McNEIL
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 WILLIAM A. MUNDELL
CHAIRMAN

3 JIM IRVIN
COMMISSIONER

4 MARC SPITZER
COMMISSIONER

5
6 IN THE MATTER OF THE APPLICATION OF T-
7 NETIX INTERNET SERVICES, INC. FOR A
8 CERTIFICATE OF CONVENIENCE AND
9 NECESSITY TO PROVIDE COMPETITIVE
10 RESOLD INTEREXCHANGE
11 TELECOMMUNICATIONS SERVICES, EXCEPT
12 LOCAL EXCHANGE SERVICES

DOCKET NO. T-03935A-00-0725

DECISION NO. _____

ORDER

10 Open Meeting
11 July 24 and 25, 2001
12 Phoenix, Arizona

12 **BY THE COMMISSION:**

13 Having considered the entire record herein and being fully advised in the premises, the
14 Commission finds, concludes, and orders that:

15 **FINDINGS OF FACT**

16 1. On September 20, 2000, T-NETIX Internet Services, Inc. ("Applicant" or "T-
17 NETIX") filed with the Arizona Corporation Commission ("Commission") an application for a
18 Certificate of Convenience and Necessity ("Certificate") to provide competitive resold interexchange
19 telecommunications services, except local exchange services, within the State of Arizona.

20 2. Applicant is a Colorado corporation, authorized to do business in Arizona.

21 3. Applicant is a switchless reseller, which purchases telecommunications services from
22 MCI WorldCom.

23 4. In Decision No. 58926 (December 22, 1994), the Commission found that resold
24 telecommunications providers ("resellers") were public service corporations subject to the
25 jurisdiction of the Commission.

26 5. On December 12, 2000, the Commission's Utilities Division Staff ("Staff") filed its
27 Staff Report in this matter. Staff stated that T-NETIX has provided the financial statements for the
28 year ending June 30, 2000. These financial statements list assets of \$74.6 million, total equity of

1 \$21.5 million, and a net loss of \$2.3 million based on revenues of \$26.7 million. Based on the
2 foregoing, Staff believes that the Applicant lacks sufficient financial resources to be allowed to
3 charge customers any prepayments, advances, or deposits without either establishing an escrow
4 account or posting a surety bond to cover such payments. However, T-NETIX has stated in its
5 application that it does not currently, and will not in the future, charge its customers for any
6 prepayments, advances, or deposits.

7 6. Staff recommended approval of the application subject to the following:

8 (a) The Applicant should be ordered to comply with all Commission rules,
9 orders, and other requirements relevant to the provision of intrastate
10 telecommunications service;

11 (b) The Applicant should be ordered to maintain its accounts and records
12 as required by the Commission;

13 (c) The Applicant should be ordered to file with the Commission all
14 financial and other reports that the Commission may require, and in a form and
15 at such times as the Commission may designate;

16 (d) The Applicant should be ordered to maintain on file with the
17 Commission all current tariffs and rates, and any service standards that the
18 Commission may require;

19 (e) The Applicant should be ordered to comply with the Commission's
20 rules and modify its tariffs to conform to these rules if it is determined that
21 there is a conflict between the Applicant's tariffs and the Commission's rules;

22 (f) The Applicant should be ordered to cooperate with Commission
23 investigations of customers complaints;

24 (g) The Applicant should be ordered to participate in and contribute to a
25 universal service fund, as required by the Commission;

26 (h) The Applicant should be ordered to file its tariffs within 30 days of an
27 Order in this matter, and in accordance with the Decision;

28 (i) If at some future date, the Applicant wants to charge any prepayments,
advances, or deposits, it must file information with the Commission that
demonstrates the Applicant's financial viability. Upon receipt of such filing,
Staff will review the information and the Commission will make a
determination concerning the Applicant's financial viability and whether
customer prepayments, advances, or deposits should be allowed;

(j) The Applicant's interexchange service offerings should be classified as competitive pursuant to Commission rules;

(k) The rates proposed by the Applicant in its most recently filed tariffs should be approved on an interim basis. The maximum rates for these services should be the maximum rates proposed by the Applicant in its tariffs. The minimum rates for the Applicant's competitive services should be the Applicant's total service long run incremental costs of providing those services;

(l) In the event that the Applicant states only one rate in its proposed tariff for a competitive service, the rate stated should be the effective (actual) price to be charged for the service as well as the service's maximum rate; and,

(m) The Applicant should be ordered to notify the Commission immediately upon changes to the Applicant's address or telephone number.

7. Staff further recommended approval of T-NETIX's application subject to the following conditions:

- (a) That the Applicant file conforming tariffs within 30 days of an Order in this matter, and in accordance with the Decision;
- (b) That the Applicant file in this Docket, within 18 months of the date it first provides service following certification, sufficient information for Staff analysis and recommendation for a fair value finding, as well as for an analysis and recommendation for permanent tariff approval. This information must include, at a minimum, the following:
 - 1. A dollar amount representing the total revenue for the first twelve months of telecommunications service provided to Arizona customers by T-NETIX following certification, adjusted to reflect the maximum rates that the Applicant has requested in its tariff. This adjusted total revenue figure could be calculated as the number of units sold for all services offered times the maximum charge per unit.
 - 2. The total actual operating expenses for the first twelve months of telecommunications service provided to Arizona customers by the Applicant following certification.
 - 3. The value of all assets, listed by major category, including a description of the assets, used for the first twelve months of telecommunications services provided to Arizona customers by the Applicant following certification. Assets are not limited to plant and equipment. Items such as office equipment and office supplies should be included in this list.
- (c) T-NETIX's failure to meet the condition to timely file sufficient information

1 for a fair value finding and analysis and recommendation of permanent tariffs
2 shall result in the expiration of the Certificate of Convenience and Necessity
3 and of the tariffs.

4 8. The Staff Report stated that Applicant has no market power and the reasonableness of
5 its rates would be evaluated in a market with numerous competitors.

6 9. On June 22, 2001, T-NETIX filed Affidavits of Publication indicating compliance
7 with the Commission's notice requirements.

8 10. On August 29, 2000, the Arizona Court of Appeals, Division One ("Court") issued its
9 Opinion in U S West Communications, Inc. vs. Arizona Corporation Commission, 1 CA-CV 98-
10 0672, holding that "the Arizona Constitution requires the Commission to determine fair value rate
11 bases for all public service corporations in Arizona prior to setting their rates and charges."

12 11. On October 26, 2000, the Commission filed a Petition for Review to the Arizona
13 Supreme Court.

14 12. On February 13, 2001, the Commission's Petition was granted.

15 CONCLUSIONS OF LAW

16 1. Applicant is a public service corporation within the meaning of Article XV of the
17 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

18 2. The Commission has jurisdiction over Applicant and the subject matter of the
19 application.

20 3. Notice of the application was given in accordance with the law.

21 4. Applicant's provision of resold interexchange telecommunications services is in the
22 public interest.

23 5. Applicant is a fit and proper entity to receive a Certificate for providing competitive
24 resold interexchange telecommunications services in Arizona.

25 6. Staff's recommendations in Findings of Fact Nos. 6 and 7 are reasonable and should
26 be adopted.

27 ORDER

28 IT IS THEREFORE ORDERED that the application of T-NETIX Internet Services, Inc. for a
Certificate of Convenience and Necessity for authority to provide competitive resold interexchange

1 telecommunications services, except local exchange services, shall be and the same is hereby granted,
2 except that T-NETIX shall not be authorized to charge customers any prepayments, advances, or
3 deposits. In the future, if T-NETIX desires to initiate such charges, it must file information with the
4 Commission that demonstrates the Applicant's financial viability. Staff shall review the information
5 provided and file its recommendation concerning financial viability and/or the necessity of obtaining
6 a surety bond within thirty (30) days of receipt of the financial information, for Commission
7 approval.

8 IT IS FURTHER ORDERED that T-NETIX shall comply with the Staff recommendations set
9 forth in Findings of Fact Nos. 6 and 7.

10 IT IS FURTHER ORDERED that within 30 days of the effective date of this Decision, T-
11 NETIX shall notify the Compliance Section of the Arizona Corporation Commission of the date that
12 it will begin or has begun providing service to Arizona customers.

13 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

14 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.
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16

17 CHAIRMAN

COMMISSIONER

COMMISSIONER

18 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
19 Secretary of the Arizona Corporation Commission, have
20 hereunto set my hand and caused the official seal of the
21 Commission to be affixed at the Capitol, in the City of Phoenix,
22 this ____ day of _____, 2001.

23 BRIAN C. McNEIL
EXECUTIVE SECRETARY

24 DISSENT _____
25 DDN:mlj
26
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1 SERVICE LIST FOR: T-NETIX INTERNET SERVICES, INC.

2 DOCKET NO.: T-03935A-00-0725

3

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